

DEPARTMENT OF SAFETY AND PERMITS
CITY OF NEW ORLEANS

LATOYA CANTRELL
MAYOR

ZACHARY R. SMITH
DIRECTOR

MEMORANDUM

TO: JOHN POURCIAU, CHIEF OF STAFF, MAYOR LATOYA CANTRELL

CC: LIANA ELLIOT, DEPUTY CHIEF OF STAFF, MAYOR LATOYA CANTRELL
ZACHARY SMITH, DIRECTOR, DEPARTMENT OF SAFETY AND PERMITS
JENNIFER CECIL, DIRECTOR, ONE STOP SHOP

FROM: ASHLEY BECNEL, CHIEF ZONING OFFICIAL, DEPARTMENT OF SAFETY AND PERMITS

RE: RECOMMENDED ENFORCEMENT ORDINANCE MEASURES FOR SHORT TERM RENTALS

This Department has been requested to provide this memorandum regarding our thoughts on enforcement of short term rentals (“STR”) going forward. As you are aware, I have worked closely with Theresa Becher, Council Research Officer, to inform the draft municipal code changes regarding enforcement of the City’s STR ordinances. These recommendations are independent of any zoning changes recommended by the City Planning Commission, but are mindful of the recommendations and are constructed to accommodate any such changes. While the Department has not seen the final proposed ordinance, all of the below recommendations have been incorporated to the Department’s satisfaction as of the last draft we were able to review.

I. Code Changes

The Department recommends creating three license types pertaining to short term rentals: Owner licenses, Operator licenses, and Platform licenses. No dwelling can be operated as a STR without both a valid Owner and Operator license, and no platform may financially benefit from or facilitate booking transactions of STRs without a Platform license.

- A. Owner Permits: Owner permits must be obtained by the owner of the property which is seeking STR licensure. They will be one-year permits which must be renewed annually. Residential Owner permits will require a copy of the homestead exemption for the property, and Commercial Owner permits will require noise abatement, security, and sanitation plans. They will also require that the Owner designate a validly-

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permitted STR Operator to manage the STR. The Owner may serve as the Operator and may apply for both permits simultaneously. Owners will be required to provide proof of insurance, proof of tax clearance, and must attest that they comply with certain guest safety requirements. Owners are required to ensure that certain occupancy restrictions are met, including but not limited to maximum occupancy, provision of clean linens and sanitation, and permission for the Department to conduct reasonable inspections. Owners are further required to adhere to legal requirements regarding advertisement of the property as a STR.

- B. Operator Permits: Operator permits must be obtained by adult, natural persons who are physically able to be immediately accessible by telephone and physically present at the STR within an hour of contact. Operator permits must be reapplied for annually, and must include tax clearance. Operators may be attached to multiple STRs, and are solidarily liable with the Owner for any violations of the code or other laws.
- C. Platform Permits: Any business which receives anything of value for directly or indirectly facilitating or conducting a booking transaction for STRs must possess a valid Platform Permit. Facilitation of an illegal transaction is a violation of permit requirements. Platforms can take advantage of a Safe Harbor Provision, whereby the City will deem the Platform to be in compliance with this requirement if they (1) require any person listing a STR on their platform to provide Owner and Operator permit numbers; (2) do not permit the listing of a STR without this information; (3) display this information in their listing of the STR; and (4) remove any listing that violates the law within 7 days of written (email) notification from the Department.

The Department's enforcement powers will be more clearly spelled out in the proposed changes. These will include administrative citations, hearings and judgments, as well as license revocation. They will also include the ability to disconnect electrical service to the offending property, as well as to suspend permits in emergency situations where the STR presents an imminent threat to public health, safety, or welfare. All fines assessed will be filed as liens if not paid, and will be payable as part of the permittee's tax bill. Revocation of an Owner's permit would terminate that Owner's ability to operate a STR at that property, although future owners may be able to seek an Owner's permit at that location. Revocation of an Operator's permit would terminate that Operator's ability to operate *any* STR in the City. Revocation of a Platform permit would enable the City to enjoin a platform from conducting business within the City.

It is worth noting that the Department anticipates litigation regarding the Platform permit issue. While we recommend specifically consulting with the Law Department about this issue, and while we have been working directly with them, we can safely say that Airbnb and Homeaway have

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demonstrated a willingness to litigate this issue on a national basis. The proposed structure, including the Safe Harbor provision, has been approved by the Ninth Circuit Court of Appeals and is currently being implemented by platforms in other cities, including San Francisco.

II. Resource Changes

In order to meet the responsibilities imposed by this enforcement plan, the Department believes it will require additional resources. The Department submitted a memorandum to the CAO setting forth a summary of these additional resources and the costs associated therewith. A copy of that memorandum is attached for your convenience. The CAO then submitted a memorandum to the City Council which called for a baseline investment of \$2,205,748 to be spread between Safety and Permits, Law, and Revenue to enforce the ordinance adequately. A copy of that memorandum has also been attached in full for your convenience, but the major changes for our Department would include additional code enforcement inspectors and supervisors so that we can expand our presence in the field and web-based enforcement staff working in office to monitor listings. We have also requested that attorneys be detailed to our Department, similar to the current arrangement between Code Enforcement and the Law Department, to ensure that our adjudications are properly handled and to oversee appeals of same. Based on the litigiousness of the platforms, the CAO has also recommended the creation of a “Platform Accountability Fund”, which would be dedicated to litigation efforts required to defend the ordinance from challenges by platforms.

To: Gilbert Montañó, Chief Administrative Officer
From: Jennifer Cecil, Director, One Stop for Permits & Licenses
Zachary Smith, Director, Department of Safety & Permits

Cc: Chad Dyer, Deputy Chief Administrative Officer, Land Use
Ashley Becnel, Chief Zoning Official, Department of Safety & Permits

RE: Unified Short Term Rental Enforcement Office

The purpose of this memo is to provide information to the Chief Administrative Office relative to R-19-7, a Resolution "Establishing Guidelines for Increased Short Term Rental Fees, Dedication of Fees to Increase Affordable Housing, and Planning for Improved Enforcement of Short Term Rentals including Accountability Standards for Platforms" by:

1. Recommending an Organizational Solution to create the office described within the constraints of the Charter.
2. Providing Estimated Costs associated with staffing such an office.
3. Estimating Platform Accountability challenges and costs.
4. Identifying Future Elements that may need to be incorporated based on the preamble.

On January 10, 2019 the City Council will take up not only the above referenced resolution, but also Motion M-19-4 directing the City Planning Commission to draft a text amendment altering definitions and standards related to Short Term Rentals (STRs).

SUMMARY

1. Recommending an Organizational Solution to create the office described within the constraints of the Charter.

Expand the capacity and staffing in the existing Short Term Rental Administration in Safety & Permits to include litigation staff, additional web-based enforcement, and inspections staff sufficient to provide 24/7 responses. Maintain a separate but focused tax collection unit within the department of Finance in compliance with the Home Rule Charter and State Law.

2. Providing Estimated Costs associated with staffing such an office.

	Personnel	Other Operating	TOTAL
Current Costs	\$1,034,188	\$66,770	\$1,100,958
Incremental Cost of Implementing M-19-4	\$490,686	\$21,000*	\$511,686
Incremental Cost of Maintaining 24/7 Responsive staffing	\$226,958	\$20,000*	\$246,958
Total	<u>\$2,173,894</u>	<u>\$107,770</u>	<u>\$1,859,602</u>

*first year cost, only

NOTE: This does NOT include the costs of a dedicated Tax Collection Unit within the Department of Finance, Bureau of Revenue.

3. Estimating Platform Accountability challenges and costs.

Other cities that have been successful in regulating the platforms have done so through litigation and settlement agreements. This matter has not been legally settled by courts, and litigation on these constitutional issues is complex, nuanced, and requires specialized knowledge. We strongly recommend hiring outside counsel and estimate the annual cost of such litigation to be at least \$1 million dollars per year.

4. Identifying Future Elements that may need to be incorporated.

Based on the reasoning supplied in the resolution it appears that future requests may include the consolidation of the administration of NHIF within the “Unified Short Term Rental Office” and the monitoring of affordable housing levels/grant compliance in the same.

DETAILED INFORMATION/BACKGROUND

1. Recommending an Organizational Solution

R-19-7 resolves that CAO should examine “the feasibility of creating a standalone office to strengthen short term enforcement so that monies from the NOQLF are not distributed to multiple City Departments.”

Challenges: Constraints of Authority based on the Home Rule Charter and Multi-Agency Duties

1. The power to administer and enforce the zoning ordinances, as well as any other laws and regulations under which permits are required, rests with the Department of Safety and Permits (“Safety & Permits”) under Section 4-702(1).
2. Safety and Permits also has the exclusive authority to issue permits under the Charter (Section 4-702(2)).
3. Collection of taxes and fees is delegated by Charter to the Department of Finance (“Finance”) in Section 4-1301(1).
4. While most enforcement activity can be located in a single unified office, there are other enforcement actions related to Short Term Rental activities that inseparably involve other agencies in direct and indirect manners. For instance, the City Planning Commission continues to perform studies aimed to altering what standards are enforced; Neighborhood Engagement will continue to exist as a point of access for bringing complaints to the city’s attention; NOPD will respond to disruptive and suspicious activity; the Bureau of Accounting will approve of fines and fees deposited in the City’s General Ledger; etc.

Recommendation: Assign Most STR Enforcement to S&P and Expand Dedicated Legal Capacity

1. & 2. Any office established for unified STR enforcement would have to exist within an agency authorized by the City Charter. The overwhelming majority of the concerns from the public and City Council related to Short Term Rental enforcement are zoning violations. Since the Department of Safety and Permits is the only agency authorized to interpret and enforce zoning matters, it is recommended that Safety and Permits is best suited to house such an office.
3. Tax collection may only be performed by the Department of Finance. Due to the confidential nature of tax information pursuant to LA RS 47:349, it is likely not possible nor appropriate to assign revenue agents or their duties to another department. However, since most public facing functions are not related to such information, having a dedicated, but separate unit in the Department of Finance dedicated to Short Term Rentals would most appropriate. Additionally, there are a number of similar issues which, by necessity, concern both Finance and Safety & Permits, including Alcoholic Beverage Outlet permits, occupational licensure, and other related issues.
4. It is operationally inefficient and legally problematic to incorporate every single activity, like the examples in 4 above, that is ancillary to STR enforcement in a single office. Nearly all direct costs for what the council perceives as enforcement may be located within a single office—the Department of Safety and Permits. There is and will continue to a justification for some portion of NOQLF fund to be deposited in the General Fund.

2. Providing Estimated Costs

Given the restraints set forth above, up-staffing and consolidation would be the most effective way to bolster the City's enforcement powers for STRs. Precedent set by the One Stop housing specialized IT staff and Code Enforcement having city attorneys functionally report to the Director of Code Enforcement can be leveraged to achieve the intention of this Resolution.

Existing staff in the Department of Safety & Permits STR Administration has authority to perform the duties described in the resolution. With their subject matter expertise, and additional skilled personnel able to oversee adjudication and litigation matters, Safety & Permits will be able to enforce any short term rental laws (aside from taxation) passed by the Council effectively and efficiently. Specifically, Safety & Permits believes that the creation of an in-house legal team to specialize in and handle adjudications and appeals of adjudications, as well as a web research team to perform data scraping and other online aspects of monitoring and enforcement, will build upon our current foundation to empower the City to address this difficult problem.

This enhanced Short Term Rental Office would liaise and share data with Finance to ensure the proper collection of fees and penalties related to licensure and enforcement of short term rentals pursuant to law.

Current state

There are currently 13 full-time employees dedicated to Short Term Rental Administration:

- 1 Short Term Rental Administrator,
- 2 Permit Analysts,
- 8 Code Enforcement Inspectors,
- 1 Office Assistant, and
- 1 Information Technology Specialist.

With fringe benefits and salaries included, the current annual cost of personnel totals \$822,518.

The STR Administration works collaboratively with other divisions of the Department of Safety and Permits' One Stop Shop. The Current Short Term Rental Administration additionally leverages the document management and case notice/scheduling services of the Administrative Hearings Bureau, which has 3 employees with a total personnel cost of \$211,670.

M-19-4 - Palmer Motion (shown in blue on table and chart)

In order to staff Cn. Palmer's motion as drafted as well as the majority of Cn. Moreno's resolution, the department recommends the addition of 6 full-time employees as follows:

- 3 Attorneys employed by the Law Department, but functionally reporting to Safety and Permits to oversee hearings and manage litigation and appeals of administrative adjudications,
- 1 additional Code Enforcement Inspectors to aid in performance of pre-issuance inspections and stepped-up violation monitoring,
- 1 additional Permit Analyst to ensure staff capacity to review and respond timely to more onerous application requirements,
- 1 staff members to focus exclusively on web-based enforcement.

The incremental personnel cost of adding these positions would be \$490,686, bringing the total personnel cost for Unified Short Term Rental Administration to \$1,524,874. An additional \$21,000

in other operating funds (\$6,000 for computers and office supplies and \$15,000 for an enforcement vehicle) would also be needed in the first year of up-staffing.

Cost of Maintaining 24/7 Responsive staffing (shown in orange on table and chart)

Further, in order to support a 24/7 response, we recommend the addition of:

- 2 Code Enforcement Inspectors and
- 2 Code Enforcement Inspector, Supervisors.

This is necessary in order to staff the 76 shifts per week that would be created by staffing 3 shifts daily rather than only 2, which would require a complement of 14 inspectors, 4 of which would need to be supervisors.

The incremental personnel cost of adding these positions would be \$226,958, bringing the total personnel cost for Unified Short Term Rental Administration to \$2,173,895. An additional \$20,000 in other operating funds (\$5,000 for computers and office supplies and \$15,000 for an enforcement vehicle) would also be needed in the first year of up-staffing.

The Chart in Appendix A shows an Organizational Chart for Proposed Unified Short Term Rental Office. The table in Appendix B shows positions in color coding indicated above.

3. Estimating Platform Accountability challenges and costs.

Platform accountability to municipalities regarding STR enforcement is a constantly evolving area of law. STR laws are difficult to enforce without certain crucial information, such as the address of the property being rented. Platforms cite a variety of laws and constitutional provisions which they claim prevent them from sharing this information. While certain cities, including San Francisco, have been able to reach settlement agreements with platforms requiring the sharing of key data, most of the litigation on this topic continues. The cases have not yet reached the federal circuit courts, so it is likely that this uncertainty could continue for some time. Platforms have demonstrated that they are willing to aggressively pursue litigation against major cities—most recently New York and Miami—and have spared no expense in doing so. They have advanced arguments under a number of legal theories, including but not limited to the Communications Decency Act, the Stored Communications Act, the First Amendment and the Fourth Amendment. As such, skilled and specialized legal representation would be required to combat any such litigation. Furthermore, the litigation would be time consuming for any personnel or contractors dedicated thereto. As a result, we believe that a large litigation budget of \$1,000,000 per year would likely be necessary to defend any platform regulations enacted or other challenges to the law.

4. Identifying Future Elements that may need to be incorporated.

Within R-19-7, there are 12 “Whereas” statements presented to introduce the reasoning of what is being resolved. The resolution concludes by directing consideration of 3 of these topics, discussed at length in prior sections of this memorandum. A table summarizing these topics and statements is below.

Topic	Number of “Whereas” statements on each topic	Was the topic addressed in “Be it resolved”
Affordable Housing	3	No
Neighborhood Housing Improvement Fund (NHIF)	2	No
Platform Data Sharing/ Direct Regulation	2	Yes
Increased Enforcement/ More Legal Staffing	3	Yes
New Orleans Quality of Life Fund	2	Yes

It is likely that Affordable Housing and NHIF are not included in the direction of this resolution due to the pending inclusionary zoning study and M-19-6, which directs the City Planning Commission to perform a study addressing affordable housing and blight reduction recommendations tied to Short Term Rentals. It will be important to plan for the appropriate office to coordinate all of the City’s affordable housing efforts. This office will have to coordinate between a variety of City departments to ensure that the rules are being properly applied, projects are being properly permitted, and that the rules are enforced on an ongoing basis. We believe that a dedicated staff member to oversee and coordinate this work would likely be the most efficient solution.

APPENDICES:

- A – Organizational Chart for Proposed Unified Short Term Rental Office
- B – Chart of Costs of Positions and Costs for a Unified Short Term Rental Office
- C – M-19-4
- D – M-19-6
- E – R-19-7

APPENDIX A - CHART OF COST OF POSITIONS AND COSTS FOR A UNIFIED SHORT TERM RENTAL OFFICE

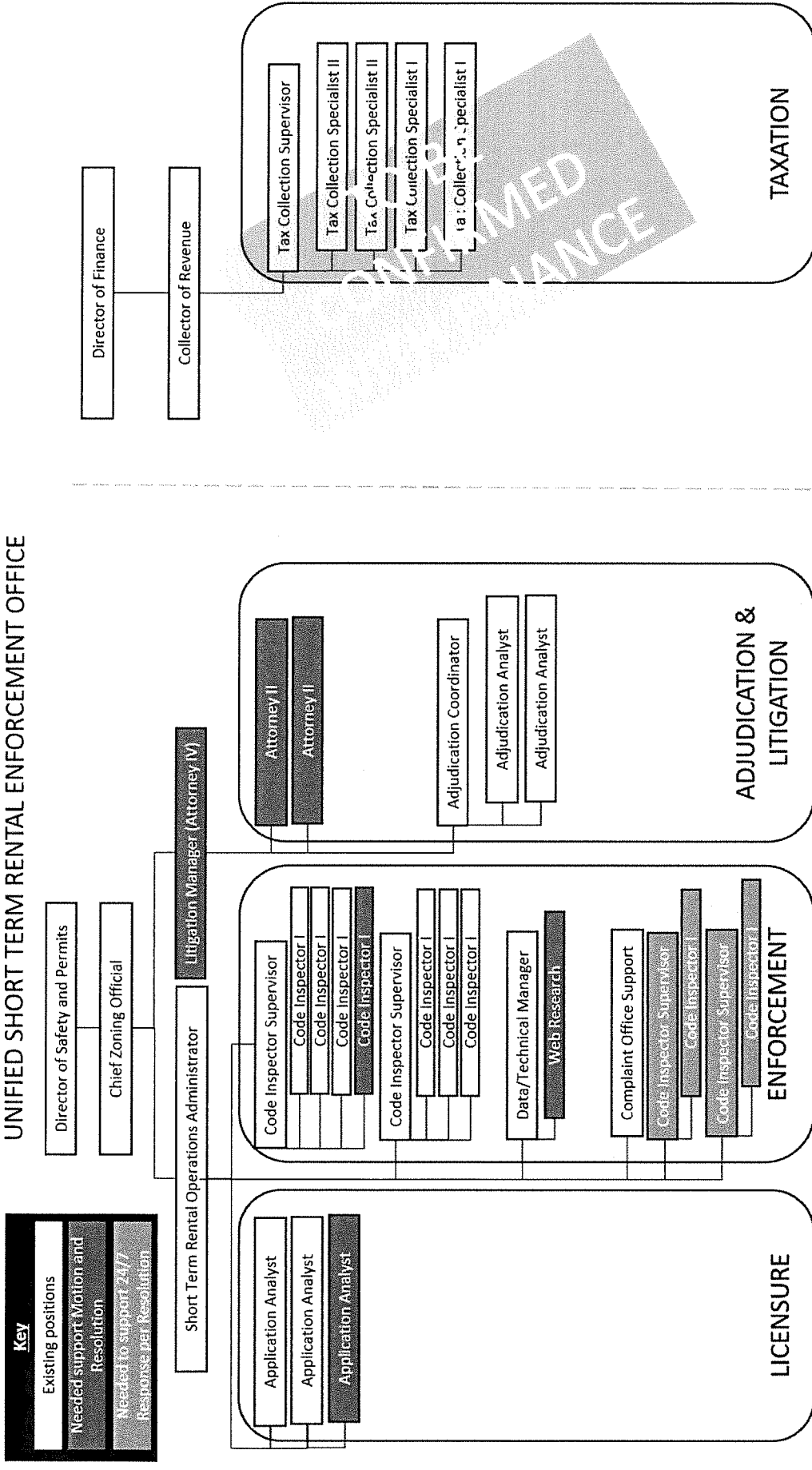
Section	Description	Code	Position Title	Annual Rate	Loaded Salary
Adjudication	Adjudication Coordinator	C0364	MANAGEMENT DEVELOPMENT SPECIALIST II	\$ 51,145.00	\$ 76,632.12
Adjudication	Adjudication Analyst	C0361	MANAGEMENT DEVELOPMENT ANALYST II	\$ 46,306.00	\$ 71,815.44
Adjudication	Adjudication Analyst	C0361	MANAGEMENT DEVELOPMENT ANALYST I	\$ 40,896.00	\$ 63,222.33
Adjudication	Attorney	U0984	ATTORNEY II	\$ 95,181.00	\$ 134,248.82
Adjudication	Attorney	U0984	ATTORNEY II	\$ 63,960.00	\$ 93,399.26
Adjudication	Attorney	U0983	ATTORNEY I	\$ 63,960.00	\$ 93,399.26
Enforcement	Data/Technical Manager	C0177	INFORMATION TECH SPEC III	\$ 75,171.00	\$ 110,526.58
Enforcement	Short Term Rental Administrator	C0364	MANAGEMENT DEVELOPMENT SPECIALIST II	\$ 56,488.00	\$ 85,620.62
Enforcement	Code Enforcement Inspector, Supervisor	C2210	CODE ENFORCEMENT INSPECTOR II	\$ 37,027.00	\$ 58,535.13
Enforcement	Code Enforcement Inspector, Supervisor	C2210	CODE ENFORCEMENT INSPECTOR II	\$ 37,027.00	\$ 58,535.13
Enforcement	Code Enforcement Inspector	C2204	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 55,056.09
Enforcement	Code Enforcement Inspector	C2204	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 56,180.27
Enforcement	Code Enforcement Inspector	C2204	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 55,056.09
Enforcement	Code Enforcement Inspector	C2204	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 55,056.09
Enforcement	Code Enforcement Inspector	C2205	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 55,056.09
Enforcement	Code Enforcement Inspector	C2206	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 55,056.09
Enforcement	Code Enforcement Inspector	C2208	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 54,831.09
Enforcement	Web Research	C0165	INFORMATION TECHNOLOGY SPECIALIST I	\$ 29,608.00	\$ 48,453.11
Enforcement	Code Enforcement Inspector, Supervisor	C2210	CODE ENFORCEMENT INSPECTOR II	\$ 37,027.00	\$ 58,535.13
Enforcement	Code Enforcement Inspector, Supervisor	C2210	CODE ENFORCEMENT INSPECTOR II	\$ 37,027.00	\$ 58,535.13
Enforcement	Code Enforcement Inspector	C2209	CODE ENFORCEMENT INSPECTOR I	\$ 34,369.00	\$ 55,057.40
Enforcement	Code Enforcement Inspector	C2208	CODE ENFORCEMENT INSPECTOR I	\$ 34,368.00	\$ 54,831.09
Enforcement	Complaint Intake	C0060	OFFICE ASSISTANT II	\$ 23,675.00	\$ 41,464.78
Licensure	Application Analyst	C0362	MANAGEMENT DEVELOPMENT ANALYST II	\$ 46,306.00	\$ 71,815.44
Licensure	Application Analyst	C0361	MANAGEMENT DEVELOPMENT ANALYST I	\$ 40,896.00	\$ 64,560.03
Licensure	Application Analyst	C0361	MANAGEMENT DEVELOPMENT ANALYST I	\$ 40,896.00	\$ 63,222.33

Below is information based on the estimates provided by the Department of Finance during the 2016 adoption of STR regulations. It has not been supplied in response to this ordinance, only updated with newer rates of pay. We recommend confirming such costs associated with a dedicated Tax Collection Unit with the Department of Finance, Bureau of Revenue.

Position	Title	Base Salary	Loaded Salary
C0437	TAX COLLECTION SPECIALIST I	\$ 31,117.00	\$ 50,802.48
C0438	TAX COLLECTION SPECIALIST II	\$ 34,368.00	\$ 55,056.09
C0437	TAX COLLECTION SPECIALIST I	\$ 31,117.00	\$ 50,802.48
C0438	TAX COLLECTION SPECIALIST II	\$ 34,368.00	\$ 55,056.09
C0440	TAX COLLECTION SUPERVISOR	\$ 37,959.00	\$ 59,754.56
			Total \$271,471

APPENDIX B - CHART OF COSTS OF POSITIONS AND COSTS FOR A UNIFIED SHORT TERM RENTAL OFFICE

UNIFIED SHORT TERM RENTAL ENFORCEMENT OFFICE



MOTION

NO. M-19-4

CITY HALL: January 10, 2019

BY: COUNCILMEMBERS GISLESON PALMER, GIARRUSSO, BANKS AND MORENO

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct a public hearing to consider amendments to Ordinance No. 4264 M.C.S., amended by Ordinance No. 26,413 M.C.S., as amended, the Comprehensive Zoning Ordinance of the City of New Orleans, to incorporate certain recommendations and initiatives contained in the 2018 “Short Term Rental Study”, to specifically provide desired CZO text amendments as follows:

- **Establish only two categories for short term rental permitting/licensure and land use – “Residential” and “Commercial”.**
 - **Residential Short Term Rental License – one type – which is valid in residential zoning districts, subject to the following requirements:**
 1. A valid, homestead exemption for the licensed property;
 2. Up to three licenses per lot of record or parcel (appropriate terminology to be recommended by the City Planning Commission); and
 3. Limit rentals to up to three rooms and six total guests per unit.
 - **Commercial Short Term Rental Licenses – four types - which are valid in mixed-use and commercial zoning districts, subject to the following requirements:**
 - a. **Commercial License – Single Unit**
 1. A valid, homestead exemption for the licensed unit; and
 2. Limit rentals to up to three rooms and six total guests per unit.
 - b. **Commercial License – Small Scale**
 1. Less than five total licensed units; and
 2. Limit rentals for up to five rooms and ten guests per unit.

- c. **Commercial License – Large Scale Commercial Type 1**
 - 1. Five (5) to forty-nine (49) residential units on one lot of record or parcel; and
 - 2. Up to five rooms and ten guests per unit.
 - d. **Commercial License – Large Scale Commercial Type 2**
 - 1. Fifty (50) or more residential units on one lot of record or parcel; and
 - 2. Up to five rooms and ten guests per unit.
- For “small scale commercial” and “large scale commercial” short term rentals, using research that includes the forthcoming inclusionary zoning financial feasibility study, recommend provisions to create affordable housing.
- For “small scale commercial” and “large scale commercial” short term rentals, recommend spacing restrictions in the mixed-use land use districts, including the possibility of one short term rental permit per block face.
- For “large scale commercial type 1” short term rentals, establish security requirements that include provisions for cameras, lighting, and landscaping.
- For “large scale commercial type 2” short term rentals, establish security requirements that include provisions for cameras, lighting, landscaping, 24/7 on-site security guard(s), and a front desk to be staffed at all times.
- For “large scale commercial” short term rentals, establish additional life safety requirements for units within high rise structures.
 - This includes adequate protection for life safety in every structure as defined in La. R.S. 40:1573, via compliance with applicable rules and regulations contained in the Life Safety Code of the National Fire Protection Association, and Section 518 – Special Provisions for High Rise, of Chapter IV of the Southern Standard Building Code, that are applicable to high rise structures. (Similar to Louisiana Revised Statutes 40:1578.6.)
- For “large scale commercial” short term rentals, mandate the placement on the back of the main entry door to the unit a map indicating where the exits are located in case of fire or other emergency. (Similar to Louisiana Revised Statutes 40:1580.)
- For all short term rental units, establish requirements that all sleeping rooms be equipped with a fire/smoke alarm detection system.
- For all short term rental units, establish bed linen requirements, whereby each short term rental unit shall furnish clean and fresh bed linens, unused by any other person since the last laundering thereof, on all beds assigned to the use of any guest or patron. (Similar to Louisiana Revised Statutes 21:1 Bed Linens.)

- **For all short term rental units, establish bathroom and toilet facility sanitation requirements, whereby every owner, manager, or person in charge of the conduct of any short term rental unit shall keep the closets, bathrooms, and toilet facilities provided for the use of its guests and patrons cleaned and maintained in a sanitary condition.**
- **For all short term rental units, establish anti-discrimination provisions, prohibiting any discrimination based on race, religion, national origin, age, sex, gender identity, sexual orientation, HIV/AIDS, or physical/mental disability. Any such violation shall terminate a STR license.**
- **Reconcile CZO provisions and regulations for uniformity regarding lodging and similar uses, such as bed and breakfasts, in light of this review.**
- **Establish an outright prohibition in the French Quarter, except for the VCE zoning district.**
- **Establish an outright prohibition in the Garden District.**

BE IT FURTHER MOVED, That in the process of studying and reviewing this request, the City Planning Commission staff is directed and granted the flexibility to make all appropriate changes to the proposed regulations and any existing corresponding regulations in the Comprehensive Zoning Ordinance, as amended, to establish consistency and continuity with the format of the existing zoning code, to add references wherever references are customary, needed and/or appropriate, to make the appropriate adjustments to clarify any ambiguities or mistakes, and to make adjustments deemed necessary in light of public testimony resulting from this review.

BE IT FURTHER MOVED, That City Planning Commission Staff has the discretion to review this request in one or more zoning dockets.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE MOTION WAS ADOPTED.

MOTION

NO. M-19-6

CITY HALL: January 10, 2019

BY: COUNCILMEMBERS GISLESON PALMER, BANKS AND NGUYEN

WHEREAS, the Council of the City of New Orleans has adopted a series of ordinances to define, categorize, and regulate Short Term Rentals (STR), which became effective April 1, 2017; and

WHEREAS, the current and prior City Councils both submitted motions for a Short Term Rental Study, via M-18-86 and M-18-194, which has led the City Planning Commission (CPC) to undertake a thorough study, approved by CPC on October 3, 2018; and

WHEREAS, the City Council is proposing updates to the City's existing STR regulations, found in the Comprehensive Zoning Ordinance (CZO) and City Code, to reflect CPC's analysis and data from the Cities of New Orleans, Austin, Charleston, Nashville, and Savannah; and

WHEREAS, while the City Council wishes to move forward on a set of baseline STR regulations, it wishes to continue analyzing ways for the City to use STRs to incentivize economic development in targeted areas; **NOW THEREFORE**

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct a study on the possibility of special programs or conditions that would allow for the issuance of two or more Residential STR licenses to a single license holder to incentivize economic development in certain areas of the City, without imposing secondary effects relative to its residential fabric. In the course of its study and review, the CPC should analyze data specific to New Orleans, as well as the cause and effect of similar programs in other cities. CPC should consider and recommend provisions including but not limited to:

- The creation of an Economic Development Incentive STR Zone, possibly to be created as an overlay zoning district;
- The size of any such zone;
- The cap on the total number of Residential STR licenses within any such zone;

- The cap on the number of Residential STR licenses per owner within any such zone; and
- The possibility of a “grandfather” provision to allow any existing or prior Temporary or Commercial license holders whose license lapsed during the pendency of the Short Term Rental Interim Zoning District to regain one or more licenses for use in the Economic Development Incentive STR Zone.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to collaborate with City Office of Community Development and any other agency deemed useful in the course of its work on this study.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct and complete the study within 270 days (approximately nine months) of the passage of this motion and conduct the public hearing within 180 days of the passage of this motion.

BE IT FURTHER MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That in the process of conducting a public hearing and study on the possibility of an Economic Development Incentive STR Zone in the City of New Orleans as provided herein, the City Planning Commission and staff are directed and granted the flexibility to expand the scope of the study and make any and all legal and appropriate recommendations deemed necessary in light of study, review, and public testimony resulting from this motion.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION OF THEREOF, AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE MOTION WAS ADOPTED.

RESOLUTION

NO. R-19-7

CITY HALL: January 10, 2019

**BY: ^{HM} COUNCILMEMBERS MORENO, WILLIAMS, BROSSETT, GISLESON
PALMER AND GIARRUSSO**

**ESTABLISHING RECOMMENDED GUIDELINES FOR INCREASED SHORT TERM
RENTAL FEES, DEDICATION OF FEES TO INCREASE AFFORDABLE HOUSING,
AND PLANNING FOR IMPROVED ENFORCEMENT OF SHORT TERM RENTALS
INCLUDING ACCOUNTABILITY STANDARDS FOR PLATFORMS**

WHEREAS, the New Orleans City Council is considering amending regulations governing the short term rental industry in Orleans Parish; and

WHEREAS, numerous local and national studies demonstrate that short term rentals impact the long-term rental market by reducing affordability and availability of housing stock; and

WHEREAS, the New Orleans City Council recognizes the significant need for an increased supply of affordable housing in New Orleans; and

WHEREAS, The Greater New Orleans Housing Alliance (GNOHA) determined affordable housing to be at a crisis-level requiring an additional 33,600 of affordable units by 2025; and

WHEREAS, the City of New Orleans collects millions of dollars from taxes, application fees, and penalty fines from short terms rentals, yet only a \$1 per night fee from short term rentals is allocated to the Neighborhood Housing Improvement Fund (NHIF) to promote and develop affordable housing; this fee generated \$550,000 from Airbnb during April 2017 to February 2018; and

WHEREAS, advocacy groups including GNOHA, the Greater New Orleans Fair Housing Action Center, and Jane Place Neighborhood Sustainability Initiative emphasize that the current per night fee allocation to NHIF is not nearly sufficient enough to make a meaningful impact toward expanding affordable housing; and

WHEREAS, only one platform, Airbnb, entered into a Cooperative Endeavor Agreement with the City and State for automatic remission of fees and taxes generated from short term rentals; and

WHEREAS, many platforms remain non-compliant regarding the collection of fees and taxes on their websites or provide necessary data to the City to improve enforcement and oversight of the short term rental program and licensing; and

WHEREAS, the City Planning Commission concluded that data provided by short term rental platforms is ineffective and overall enforcement of existing regulations is challenging; and

WHEREAS, in 2017, the Louisiana Legislature approved state hotel/motel taxes from short term rentals in New Orleans to be deposited in the New Orleans Quality of Life Fund (NOQLF) for enforcement of short-term rentals; and

WHEREAS, the NOQLF has generated at least \$6.2M since its inception and projected to generate an additional \$4.2M in 2019; and

WHEREAS, the monies in the fund received by the City have been appropriated to several different departments for short term rental enforcement purposes; and

WHEREAS, processing reports, tracking information, issuing subpoenas, handling adjudications, recording liens, and other enforcement duties require a significant amount of resources from multiple City departments; and

WHEREAS; increased efficiencies are also necessary to receive complaints and collect outstanding fines; **NOW THEREFORE**

BE IT RESOLVED, That due to the limited, existing resources to develop and promote increased affordable housing units, a major shift in the amount and utilization of fees and fines from short term rentals is a necessary component to any new, adopted policies that are crafted by the New Orleans City Council; new code amendments should include a substantial increase to both licensing and nightly fees, particularly for commercial properties, to be allocated to the NHIF for affordable housing programs with any fines from penalties also appropriated to the NHIF.

BE IT FURTHER RESOLVED, That we, the members of the Council of the City of New Orleans, believe that enforcement of short-term rentals should predominately be funded through the State dedication from the NOQLF; the Chief Administrative Officer for the City of

New Orleans is hereby directed to examine enforcement efficiencies, including but not limited to, the feasibility of creating a standalone office to strengthen short term rental enforcement so that monies from the NOQLF are not distributed to multiple City departments. This will increase accountability and ensure that NOQLF funding is only used for short term rental enforcement purposes.

BE IT FURTHER RESOLVED, That the Department of Safety and Permits is directed to provide recommendations to the New Orleans City Council on improved platform accountability including, but not limited to: mechanisms for improved data sharing, existing gaps in data provided by home-sharing platforms that would be beneficial to enforcement and facilitate oversight of the short term rental program, platform registration, and tax/fee remission by February 15, 2019.

BE IT FURTHER RESOLVED, That the Clerk of Council transmit certified copies of this resolution to Gilbert Montañó, Chief Administrative Officer for the City of New Orleans, and to Zachary Smith, Director of the Department of Safety and Permits.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE RESOLUTION WAS ADOPTED.



**CHIEF ADMINISTRATIVE OFFICE
MEMORANDUM**

To: Councilmember Kristin Gisleson Palmer, District C
From: Gilbert Montaña, Chief Administrative Officer
CC: Zachary Smith, Director, Department of Safety and Permits
Chad Brown, Chief of Staff to the Chief Administrative Officer
Date: March 7, 2019
Re: FOR REVIEW: Unified Short Term Rental Enforcement Office

Background

On January 10th 2019, City Council approved a motion (NO.M-19-4) and a resolution (NO. R-19-7) which impact the licensing and operation of Short Term Rentals (STRs). In 2018 \$334,725 in fines were assessed for Short Term Rental violations. To date, the City has collected \$93,310. Unpaid fines are recorded on Property Tax bills, so payments from liens applied last year, are still being remitted from this year's tax payments.

M-19-4

Motion M-19-4 was brought forward by Councilmembers Palmer, Giarrusso, Banks and Moreno. This resolution requires the City Planning commission (CPC) to hold public hearings in order to incorporate certain recommendations and initiatives contained in the "2018 Short Term Rental Study."

R-19-7

Resolution R-19-7 was brought forward by Councilmembers Moreno, Williams, Brossett, Palmer, and Giarrusso. The resolution requires: (1) an allocation of licensing costs, fees, and fines to Neighborhood Housing Improvement Fund (NHIF) for affordable housing programs (2) the CAO to examine enforcement efficiencies, including but not limited to, the feasibility of creating a standalone office to strengthen STR enforcement, and (3) the Department of Safety and Permits must provide recommendations to the City Council on improved platform accountability.

Recommendations from the Department of Safety and Permits

In order to comply with M-19-4 and R-19-7, the Department of Safety and Permits recommends the following:

- (1) Assign the majority of STR enforcement activities to the Department of Safety and Permits while expanding dedicated legal capacity in the Law Department
- (2) Expand staffing in the Bureau of Revenue to handle collections
- (3) Up-staff to ensure the Short Term Rental Administration Office is able to provide 24/7 response
- (4) Allocate enough funding to allow the City to take action to defend any platform regulations enacted or other challenges to relevant laws

Implementation Costs

In order to ensure that the City is adequately staffed to handle Short Term Rental Enforcement, the following positions are needed:

Dept.	Position	Personal Services	Other Operating	Total Cost
Safety & Permits	(2) Code Enforcement Inspectors;	\$226,958	\$20,000	\$246,958
	(2) Code Enforcement Inspector Supervisors			
	(3) Staff members exclusively for web-based enforcement	\$182,391	\$30,000	\$212,391
Law	(3) Attorneys	\$ 405,877	\$0	\$405,877
	Platform Accountability Fund*	\$0	\$1,000,000	\$1,000,000
Revenue	(1) Collector; (1) Revenue Agent II; (2) Revenue Agent I, (1) Tax Collection Specialist I; and (1) Tax Collection Specialist II	\$290,522	\$50,000	\$290,522
Total Implementation Costs		\$2,205,748		

* Fund dedicated to litigation efforts required to defend any platform regulations enacted or other challenges to the law

These estimated implementation costs are based solely on personal services and other operating. These costs (and any associated revenues) will be further evaluated and analyzed through the City's new Zero Based Budgeting process which is currently being piloted (with the Department of Safety and Permits).

NOTE: This memo is for informational purposes, thus no action is required.